

Duell, et al.

v.

Noblesville School District, et al.

Daniel J. Swafford

February 06, 2023

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1 Q. So was there a number limit to how many fliers
2 a student could print out?

3 A. No. No.

4 Q. Okay.

5 A. It was mainly by location. We wanted to try
6 to keep postings in the area that would create
7 the most impact, that would get the most --
8 kids would see it. Putting things on lockers
9 doesn't work.

10 Q. What other locations did you see students try
11 to use that you wouldn't allow or that
12 wouldn't work?

13 A. Did allow or did not?

14 Q. Did not allow.

15 A. Did not, okay.

16 Q. So did you allow things on lockers?

17 A. No.

18 Q. Okay. What else?

19 A. On outside of teachers' doors, in the
20 hallways, stairways, exteriors, exterior areas
21 of the building.

22 Q. Any other locations that were not allowed?

23 A. No.

24 Q. So where could a student find out where they
25 were allowed to post their posters?

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1 A. Generally it was through their club sponsor
2 and then -- then they would tell them where
3 they could post those things.

4 Q. Okay. So, like, a faculty sponsor would
5 communicate verbally to the students?

6 A. Yes.

7 Q. How did the faculty sponsor know the rules
8 about where to post fliers?

9 A. We had always told them.

10 Q. In staff meetings or through e-mails, or how
11 would that get communicated?

12 A. Staff meetings, e-mail, questions from
13 sponsors.

14 Q. So when you took over as facilities manager,
15 as part of your role, did you implement new
16 rules that didn't exist before regarding
17 posting on the walls?

18 A. No.

19 Q. Okay. So we mentioned there were limitations
20 on where they could be posted, limitations on
21 how many they could print out and hang. Any
22 other limitations?

23 A. How.

24 Q. How, what do you mean?

25 A. We wanted them to -- this sounds silly. We

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1 wanted them to use blue tape or painter's
2 tape.

3 Q. Okay.

4 A. Because using packing tape or duct tape soaks
5 into the brick, or if it's put on some painted
6 surfaces, it actually pulls -- or Scotch tape,
7 it actually pulls the paint off when they take
8 them down, and it damages the walls.

9 Q. So if a student wanted to hang something on
10 the wall, their only method to do it
11 permissibly was with blue painter's tape?

12 A. Or painter's tape, yes.

13 Q. Okay. Any other rules regarding putting
14 things on the wall?

15 A. I can't think of any.

16 Q. So the rules we just talked about regarding
17 number of fliers, location, the tape, those
18 were all in place when you started in about
19 2015 as a facilities manager?

20 A. Uh-huh.

21 Q. Has that shifted over time? Have the rules
22 changed in the past handful of years?

23 A. I would say the only thing that has changed is
24 within the last year, we have gone to -- we
25 have moved to an electronic means to get that

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1 information out as opposed to posting. It's
2 taken time, but, for example, in the cafeteria
3 there are nine large monitors. In the front
4 of the counseling office, there's one.
5 There's also monitors as you walk into the bus
6 entrances on the north end of the building
7 that we now use to put that information out.
8 They're connected. The messaging goes out to
9 those.

10 Q. Okay. So a student can advertise for their
11 club now by posting to this monitor?

12 A. They cannot. Their sponsor can submit it --

13 Q. Okay.

14 A. -- to one of our secretaries who monitors, who
15 monitors that, and she has the control of what
16 information goes out, when, what time it runs.

17 Q. The secretary?

18 A. Uh-huh.

19 Q. What's her name?

20 A. Jessica Emmerson.

21 Q. Is Ms. Emmerson the one who monitors those
22 monitors or is there someone else who assists
23 in that?

24 A. She -- I think she is the only one.

25 Q. Does Ms. Emmerson decide which things are

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1 system?

2 A. Switching over.

3 Q. Okay. When did the switch to the monitors
4 happen?

5 A. Relatively early on in the school year. I
6 don't have a specific date.

7 Q. Which semester?

8 A. I -- I don't know.

9 Q. You can't remember whether it was the fall of
10 '21 or the spring of '22?

11 A. I can't.

12 Q. Okay.

13 A. It was a process. They were coming in at
14 various times and getting installed because
15 they were supposed to be installed during the
16 pandemic and didn't.

17 Q. Oh, the monitors weren't. Got you. So it was
18 kind of a process even just as they were
19 installing the monitors?

20 A. Correct.

21 Q. Do you recall when was the final monitor
22 installed?

23 A. In which area?

24 Q. In the school.

25 A. The ones in athletics, the last one was about

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1 three weeks ago.

2 Q. Okay. So going back to the time before the
3 monitors, so when students were posting on the
4 walls, what was the process for them to get a
5 flier or a poster approved?

6 A. They were to contact through the sponsor to
7 get approval to put a flier up. Then they
8 were supposed to put a date on them as to when
9 they were supposed to come down and the
10 initials of whoever approved it.

11 Q. Do people generally follow those guidelines,
12 putting the date on it and the initials?

13 A. What do you mean by generally?

14 Q. So as I walk down the halls in Noblesville
15 High School, would every flier have the date
16 and the initials --

17 A. No.

18 Q. -- or half of them, or how many would you
19 estimate?

20 A. I don't know if I could estimate. That would
21 be -- not all.

22 Q. But not all of them?

23 A. No.

24 Q. What would you do if you saw a flier that
25 didn't have that, like, approval?

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1 A. I'd follow up with that. If it was me, not
2 one of the other assistants, but if it was me,
3 then I would follow up with that sponsor or
4 take them down and have them put them back up
5 if it happened to be posted at a place that
6 they weren't supposed to be.

7 Q. When you would go touch base with a sponsor,
8 what would you discuss? What kind of concerns
9 did you have?

10 A. That it's supposed to have the date on it and
11 to find out who approved, who said it was okay
12 to put it up and have that conversation.

13 Q. Have you had many of those conversations?

14 A. Not a lot.

15 Q. The ones that you have had, how would the
16 teacher sponsors generally respond?

17 A. They were compliant I guess. That would be
18 one way to put it. It's not contentious.

19 Q. Okay. So do they generally follow your
20 recommendation?

21 A. Yes.

22 Q. Get the approval?

23 A. Yes.

24 Q. And then put them back on the wall?

25 A. Yes.

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1 Q. Did you find that there was someone else in
2 the building approving fliers?

3 A. That did happen from time to time. The other
4 assistants would from time to time.

5 Q. Okay. If that happened, if you learned that
6 this particular flier was approved by another
7 assistant principal, what would you do?

8 A. If it -- you mean if it was not posted in the
9 right place or --

10 Q. Let's say it was in a place that it's allowed
11 to be, but there wasn't the signature and the
12 date, as you mentioned it should have.

13 A. Then the sponsor would put the initials back
14 up on there so we would know that it was okay
15 for it to be up.

16 Q. Okay. So you mentioned the students and
17 student club should work with their sponsor to
18 get the approval to put it up; is that right?

19 A. The sponsor would, yes.

20 Q. Okay. So what does that process look like to
21 get the approval?

22 A. Just in an e-mail.

23 Q. Who would e-mail who?

24 A. Generally the sponsor.

25 Q. So the sponsor would have that draft flier and

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1 send it to who? To you?

2 A. Yes. Or sometimes another assistant.

3 Q. But an assistant principal?

4 A. Yes.

5 Q. Did all of the assistant principals have
6 authority to approve these fliers?

7 A. Yes.

8 Q. Okay. Were students permitted to e-mail the
9 assistant principal to get fliers approved?

10 A. They could. They weren't supposed to. We
11 would then follow up with the sponsor.

12 Q. Okay. Did you see that happen where a student
13 would --

14 A. It did happen. It would happen periodically.

15 Q. So then what would you do?

16 A. Have the sponsor e-mail back, and we'll work
17 through that.

18 Q. Okay. What are the criteria for the content
19 of a valid student club flier?

20 A. That was communicated -- for example, if it
21 was supposed to be a call-out meeting, then it
22 would have when it was, where it was supposed
23 to be, that it had -- it wasn't just a general
24 poster or it was just a flier about this club
25 or that organization. If it was a club

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1 call-out, it would say in the junior-senior
2 cafeteria on this date and what it's for.

3 Q. Anything else?

4 A. That it was appropriate to be in school.

5 Q. Anything else?

6 A. No.

7 Q. What kinds of things would not be school
8 appropriate for that flier or a poster?

9 A. In a general sense, things that would be
10 disruptive to the school environment.

11 Q. Anything else?

12 A. No.

13 Q. Have you seen any proposed fliers or posters
14 that were not permitted because they were
15 deemed inappropriate?

16 A. The one I can think of recently was -- I don't
17 know if it would fall under the category of
18 inappropriate, but a Boy Scout came to me
19 wanting put up some fliers that related to his
20 Eagle Scout project.

21 Q. Okay.

22 A. I did not allow that because it did not
23 connect directly to anything associated with
24 the school. While admirable and commendable,
25 it just didn't have a place in the school.

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1 Q. Are there any other examples of fliers you
2 recall not being permitted to be posted?

3 A. One, it was a student entrepreneur in one of
4 our classes that wanted to advertise for his
5 business that he was starting. We did not
6 allow it because it did not connect to the
7 class. It was just his own business that he
8 wanted to advertise.

9 Q. Okay. Anything else?

10 A. No.

11 Q. Do you remember any other fliers that were not
12 approved?

13 A. Not specifically.

14 Q. Are student fliers or posters permitted to
15 have a photo on them?

16 A. I don't know.

17 Q. Did you approve any fliers that did have
18 photos?

19 A. That did, no. I don't recall, have any
20 recollection of that.

21 Q. Okay. How about, like, a drawing or some sort
22 of art on the posters? Is that allowed?

23 A. They have had art, yes.

24 Q. How about a graphic or clip art?

25 A. Is that the same as art?

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1 Q. Maybe there's some overlap there. But --

2 A. Okay.

3 Q. -- would you permit that sort of thing, like a
4 graphic clip art?

5 A. It could.

6 Q. But you wouldn't necessarily allow a photo or
7 you just haven't seen photos on these posters?

8 A. A photo I can't recall.

9 Q. Okay. So when the school was still doing the
10 physical posters, where were they allowed to
11 be posted?

12 A. There's an area in the upstairs in the
13 freshman center that's in a, like -- it's,
14 like, in a main hallway. There's a lot of
15 traffic there. Near the bus entrances, the
16 cafeteria, and near the auditorium, which is
17 an area where there's a lot of student traffic
18 before school, after school.

19 Q. Anywhere else?

20 A. No.

21 Q. Could student groups post fliers in
22 classrooms?

23 A. On teachers' bulletin boards they could, but
24 if that's -- again, it wasn't an area that was
25 in the teachers' classrooms.

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1 Q. Could students put fliers on lockers?

2 A. No.

3 Q. Is a student allowed to decorate their own
4 locker?

5 A. No.

6 Q. Have students ever been allowed to decorate
7 their lockers while you've been assistant
8 principal?

9 A. Yes. Limited circumstances before. For
10 example, state performances, state
11 tournaments, very short-term school play.

12 Q. So maybe for a day or two --

13 A. Correct.

14 Q. -- the week of the event?

15 A. Correct.

16 Q. Was it your role to monitor that rule
17 regarding decorating a locker or did someone
18 else make sure their lockers were only
19 decorated when they were allowed to be?

20 A. No. That generally would come through me, but
21 any assistant principal. For example, if it
22 was athletic, people in athletics know what
23 the guideline is, so if somebody's going to
24 the state tournament, you know, state final
25 game, that they're allowed to decorate.